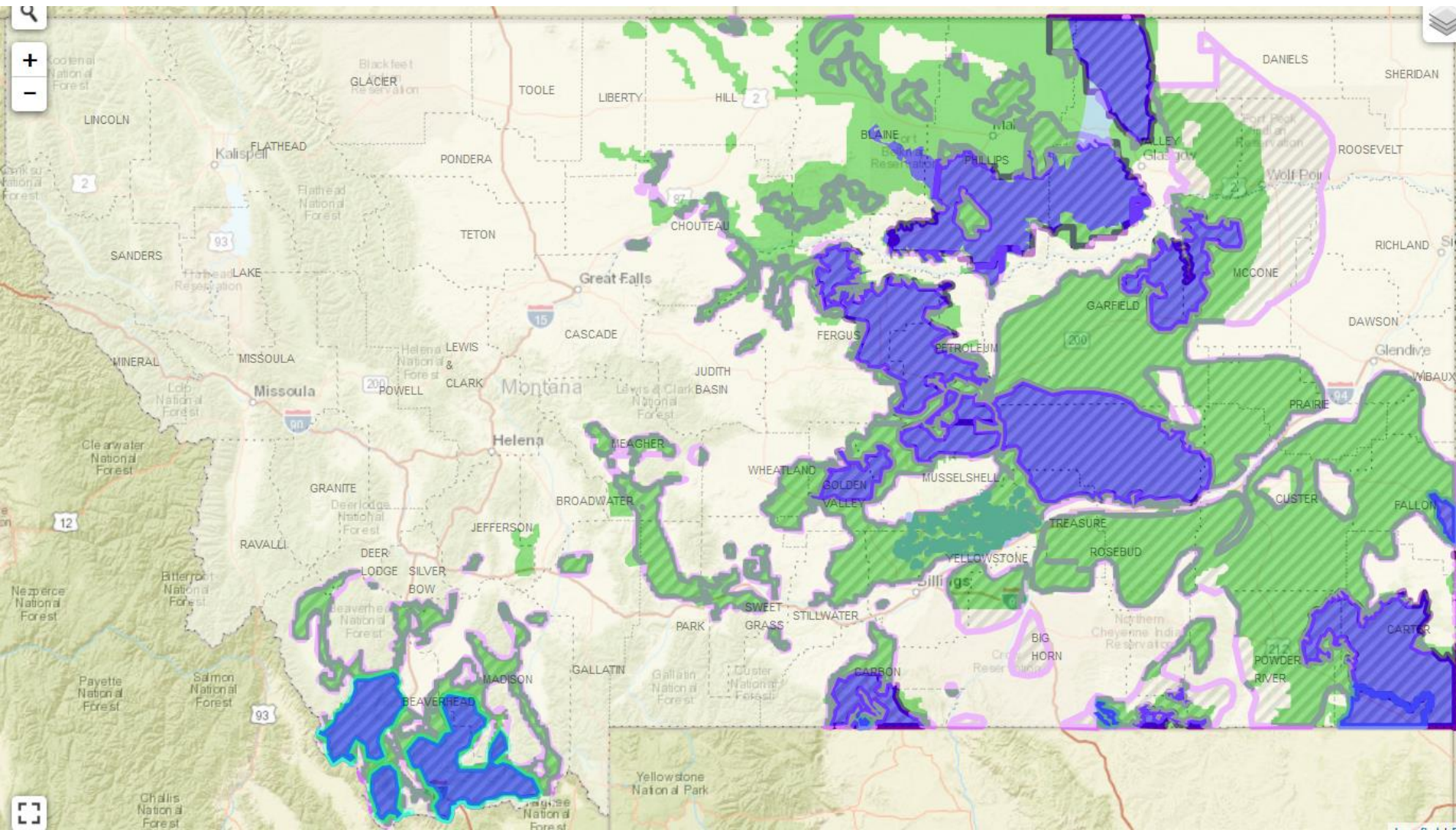# Sage Grouse Program Update

New: Mitigation

**Montana Department of Environmental Quality
Opencut Stakeholders Meeting**

February 13, 2019

MONTANA SAGE GROUSE
Habitat Conservation Program

Areas of Focus: All Lands, All Hands

- *Executive Order 12-2015*
- *Sage Grouse Stewardship Act*

- BLM
- USFS

RECAP: Consultation Process

www.sagegrouse.mt.gov

Join the
Mailing List

MSGOT
Information

Project Information
- **In/Out**
- **Start Review Process**
- **Quick Start Guide**

Is Consultation Necessary?
(Is your project "In" or "Out")

PROJECTS

Start or Follow up on a Project

Check if you are in habitat

Quick Start Guide
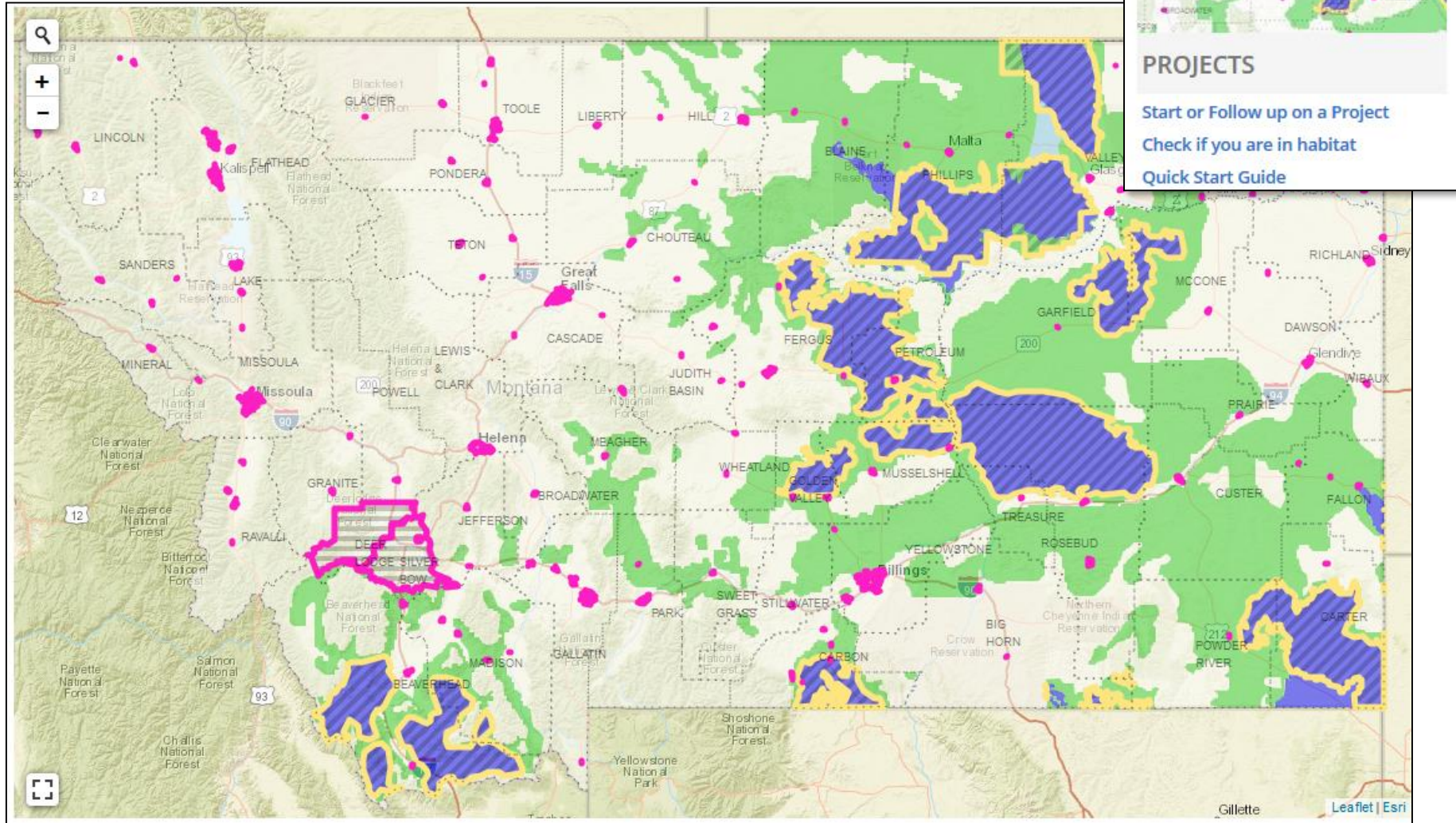
You do not need to log in to view this map

If Outside Habitat: take a screenshot & submit with permit application

If Inside Habitat: create a secure ePass account and begin

If Project is within Sage-grouse Habitat Create a Secure ePass Account on the Montana.gov Website

Read Instructions & Quick Start Guide Work Through Steps

MONTANA.GOV
OFFICIAL STATE WEBSITE

SERVICES   AGENCIES   SEARCH MONTANA.GOV

Project Kevin   TEAM   GRANTS   FAQ   PROGRAM MAP   HELLO CAROLYN   MANAGE ∨   PROJECTS   DISTURBANCES   NEW PROJECT   LOGOUT

Photo Credit: Richard Prodgers

Propose a project in sage grouse habitat

1. Instructions

2. Basics

3. Disturbances

4. Questionnaire

5. Attachments

6. Review & Submit

Instructions

This project proposal has a few parts:

Basics Information about Your Project
This wizard lets you submit project information for any permitted activities proposed in sage grouse habitats designated as core (blue), general (green), or connectivity (light-blue) habitats. If you're not sure which habitat zone(s) your project is in, this wizard will help you determine that. For program details please see our FAQ.

Disturbances: Project Construction and Type of Disturbance
After entering the Basics, you need to draw or upload your project's location and proposed disturbances on a map, and then enter some additional information for each disturbance. Note that a project can have one or more disturbances; for example, you may be proposing a communications project that involves a road, buried cables, and towers, in which case you would have three disturbances.

Questionnaire: Project and Disturbance Description Details
Once your proposed disturbances are mapped and described, you will need to answer some questions based on your disturbance types.

Save Your Project for Later, Save and Continue, or Submit for Review
You'll have a chance to review a summary of your proposed project before you submit it for consultation. You do not need to complete this wizard in one session – your work will be saved and the next time you log in, you'll be able to resume where you left off.

Help
If you run into any snags or have questions, please contact us.
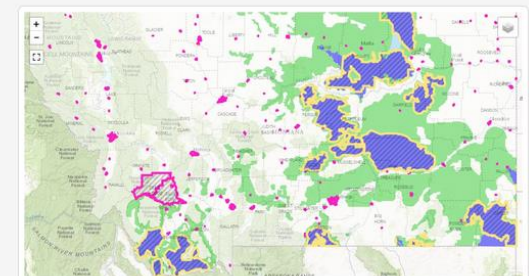
Make sure your project is in sage grouse habitat

Consultation Tips and Hints

- **Use the sandbox to plan the project prior to submitting**
  - be proactive

- **Interagency pre-meetings helpful**

- **Provide complete information**

- **Allow sufficient time, but don't speculate**

Photo: Richard Prodgers

Consistency Review

1. **Review Project**
   - Does the Executive Order apply?
   - Any MSGOT exceptions?
   - New surface disturbance or activity?
   - Where? When? How long?
   - Executive Order stipulations?

2. **NEW: Program Calculates Impacts, determines mitigation obligation**

3. **NEW: Developer decides how to fulfill obligation; mitigation plan**

4. **Program completes review, possible MSGOT meeting to approve plan**

Coordinate with other Agencies:
- **BLM**
- **USFS**
- **DNRC State Trust Lands**
- **NRCS**
- **MT Board of Oil & Gas**
- **State agencies**

Actual permits still issued by state or federal agencies

Program has no regulatory authority

What is Mitigation?

- **Webster's**: making something less severe or damaging; lowering the impact; reducing risk of loss

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- **Webster's**: making something less severe or damaging; lowering the impact; reducing risk of loss

What does it have to do with sage grouse?

- Petitioned for listing under federal ESA: 8 times + litigation

- State trust wildlife species now

- Need: development in sage grouse habitat

- Result: there will be impacts to sage grouse habitat, even if all recommendations are followed (Advisory Council, 2014)

- Outcome: balance development with conservation – mitigation is a tool

What is Mitigation?

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What does it have to do with sage grouse?

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- Need: development in sage grouse habitat
- Result: there will be impacts to sage grouse habitat, even if all recommendations are followed (Advisory Council, 2014)
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Where and when does it apply?   IF:

- need a state permit or authorization (or federal)

- development in designated habitat area (state or federal)

- not otherwise exempt from review in EO 12-2015 or by MSGOT

Why does it matter?

Mitigation keeps the scale level.

Mitigation must be timely, adequate, and effective to offset habitat losses.

Habitat Gained or Conserved

Habitat Lost or Impacted

Mitigation is how Montana gets to YES

Why does it *really* matter?

✓ **Sustain working landscapes, people, the economy**

✓ **Because an ESA listing would have significant adverse effects on the state economy, including private and state trust lands**

Photos: Joel Maes

Development

Mitigation Hierarchy:

Executive Order & Stewardship Act:

Mitigation Market Place to incentivize voluntary conservation

1. *Avoid*
2. *Minimize*
3. *Restore*
4. *Compensate* *

GOALS:

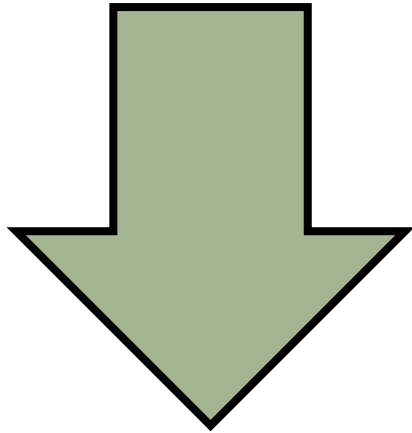**Maintain viable sage grouse populations and conserve habitat**

Maintain flexibility to manage our own lands, our wildlife, and our economy
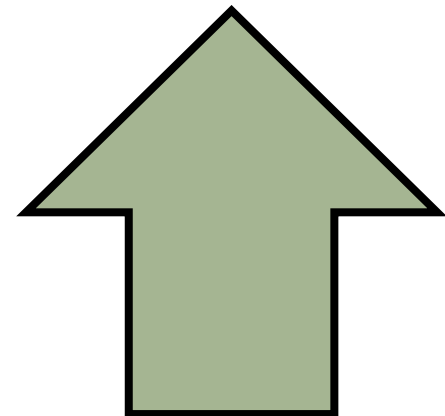
Conservation

**Development Activity:
Impacts Habitat**

Habitat Quantification Tool = a calculator

**Conservation Activity:
Conserves Habitat**

- easements
- leases
- restoration
- enhancement

HQT: the scientific method to evaluate vegetation and environmental conditions related to quality and quantity of habitat
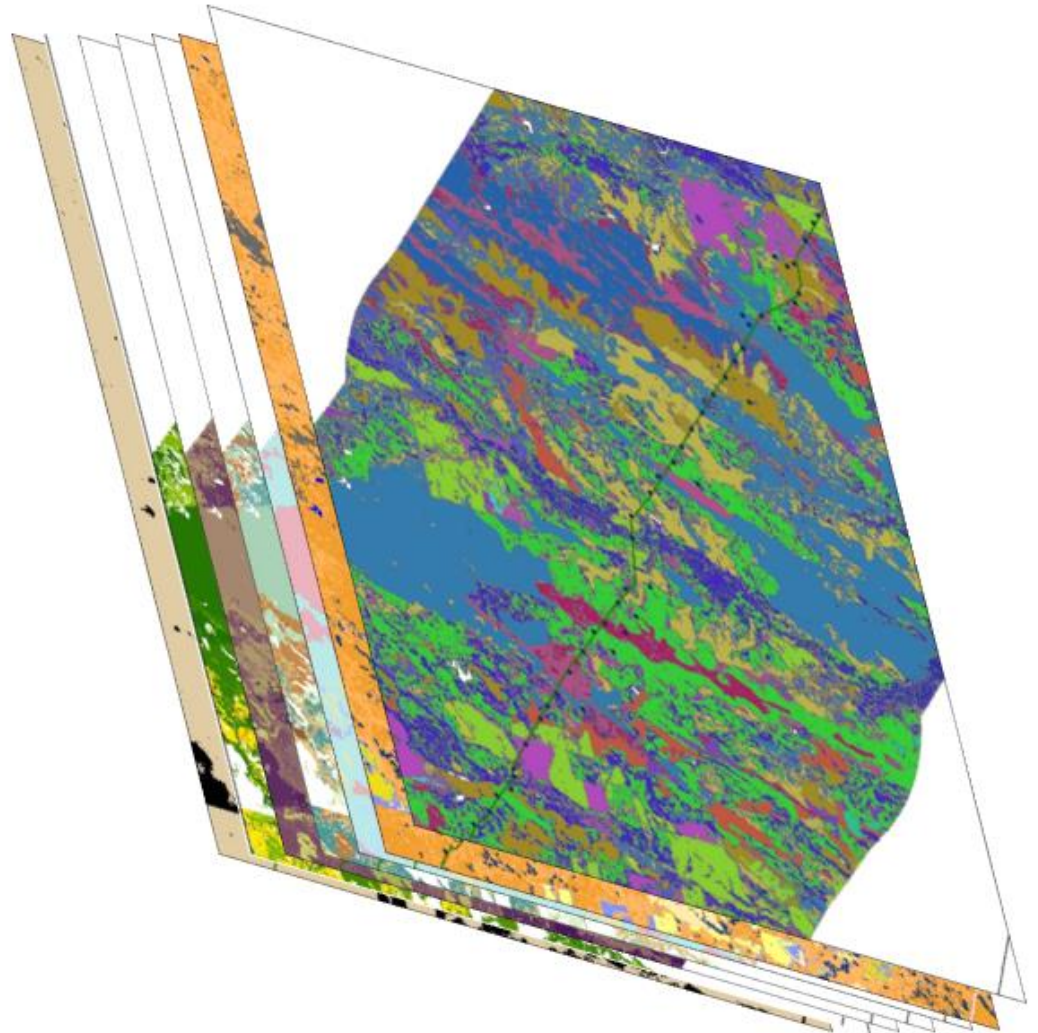
76-22-103(9), MCA

HQT: the scientific method to evaluate vegetation and environmental conditions related to quality and quantity of habitat

76-22-103(9), MCA

- A GIS model: calculates functional (Fx) acres

- Answers the questions:
    o How many functional acres are gained from conservation?
    o How many functional acres are lost due to development?

HQT GIS Model: Habitat Quality

1. **Create a Basemap:** vegetation, birds, existing disturbance

2. **Implement Project:** conservation or development

3. **Quantify:** gains or losses in functional acres for the life of the project

Montana Habitat Quantification Tool Basemap v1.0

Legend:
- MT Sage Grouse Habitat Areas
- HQT Basemap v1.0 Pixel Values
  - High: 100
  - Low: 0

Cities labeled: Havre, Great Falls, Lewistown, Missoula, Helena, Anaconda-Deer Lodge, Butte-Silver Bow, Bozeman, Livingston, Billings, Miles City

Scale: 0 — 75 — 150 Miles
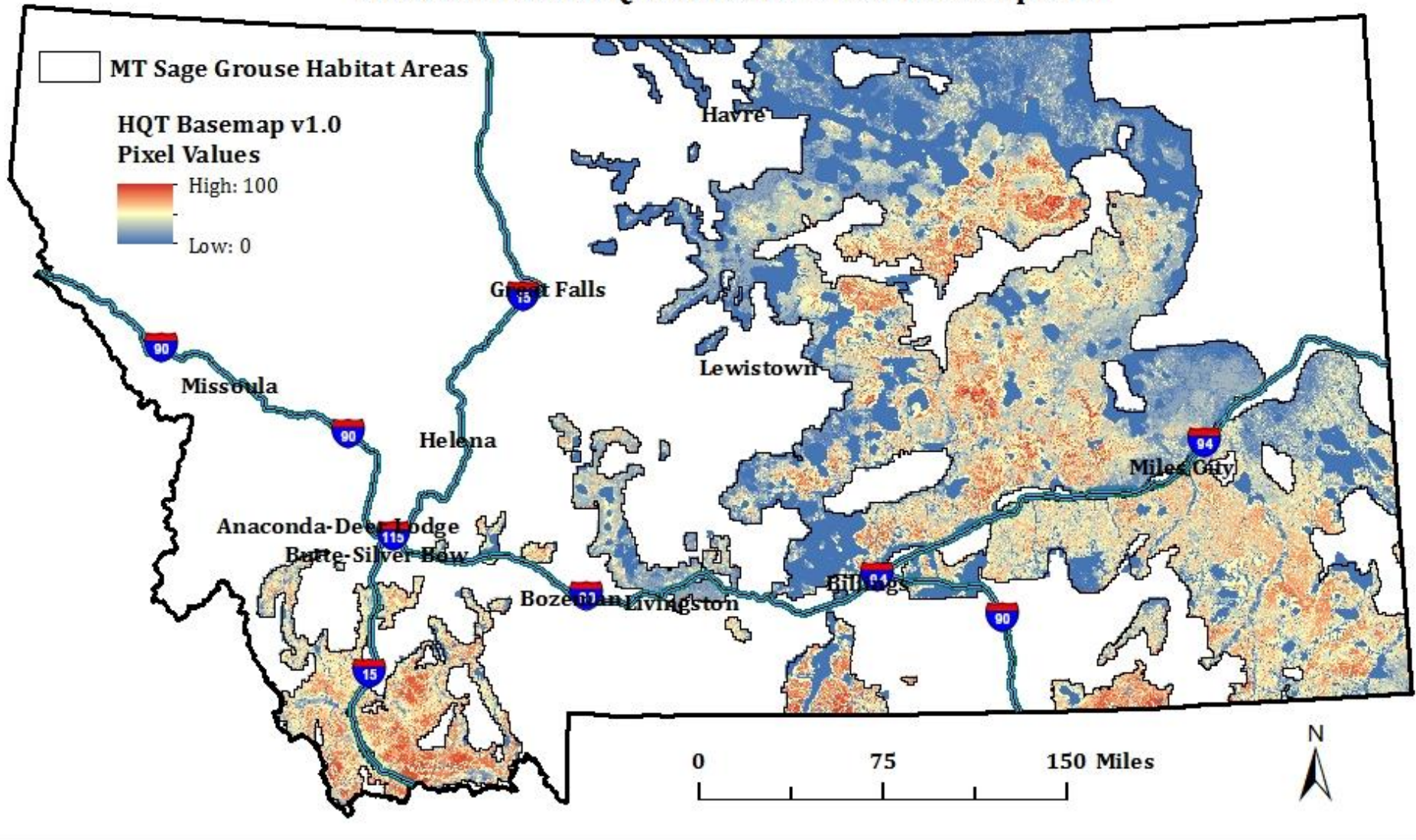
Note about Red Areas:
- *match up well with Core Areas – areas of highest priority for conservation*
- *more birds, higher quality vegetation, less existing disturbance*

Basemap: Habitat Quality Continuum

High

Low
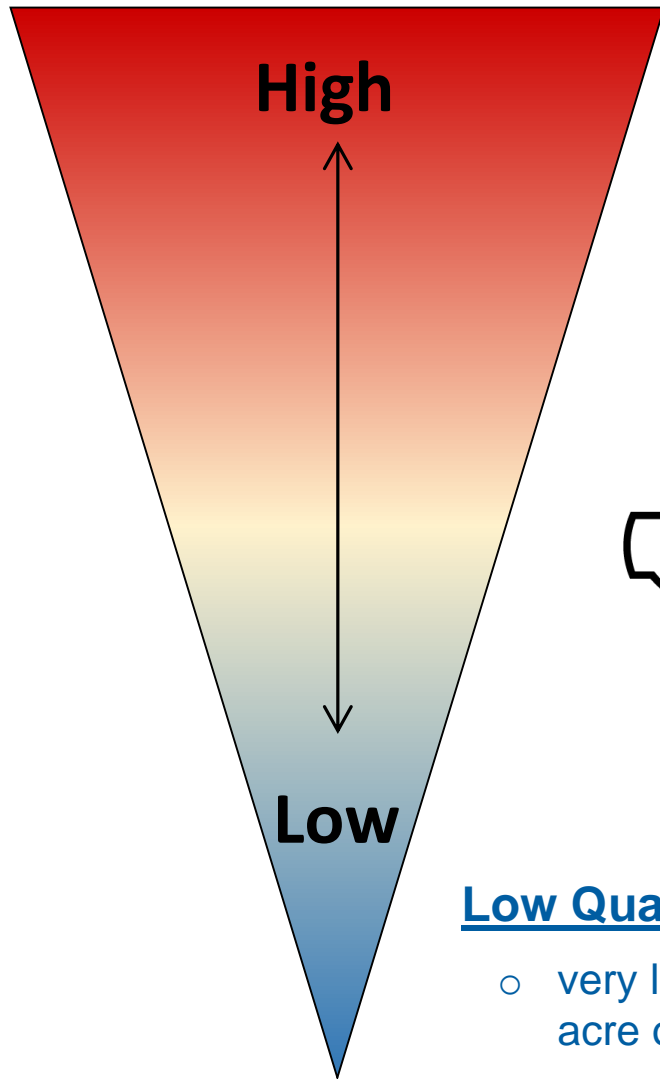
High Quality:

- very high number of functional acres for each physical acre of land
- more and darker red per unit area

Lowest mitigation obligations for projects in low quality habitat - BLUE on the map

Low Quality:

- very low number of functional acres for each physical acre of land
- more and darker blue per unit area

Hypothetical Mining

- 5-acre gravel pit, hard rock or even bentonite

- Beaverhead County

- 10-year construction/operation phase

- 75 years until reclamation phase complete – site returns to pre-project condition
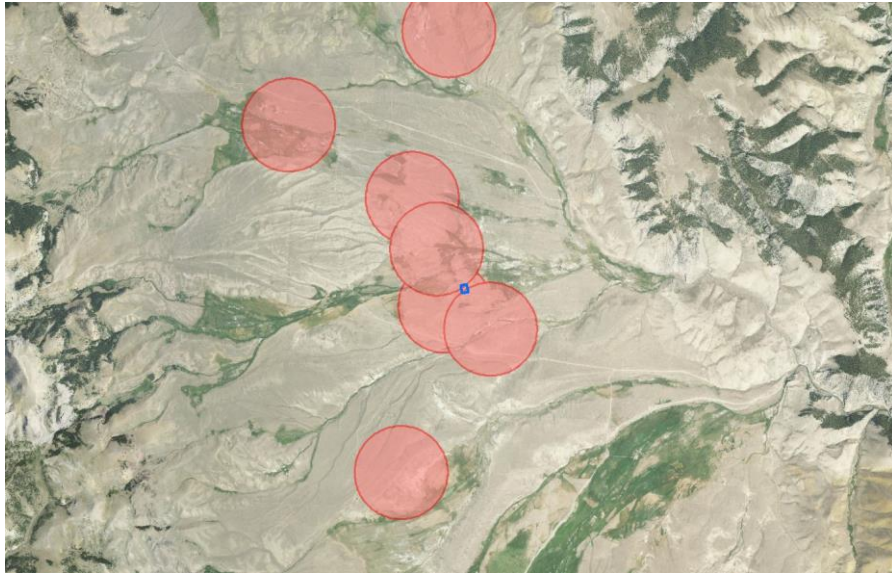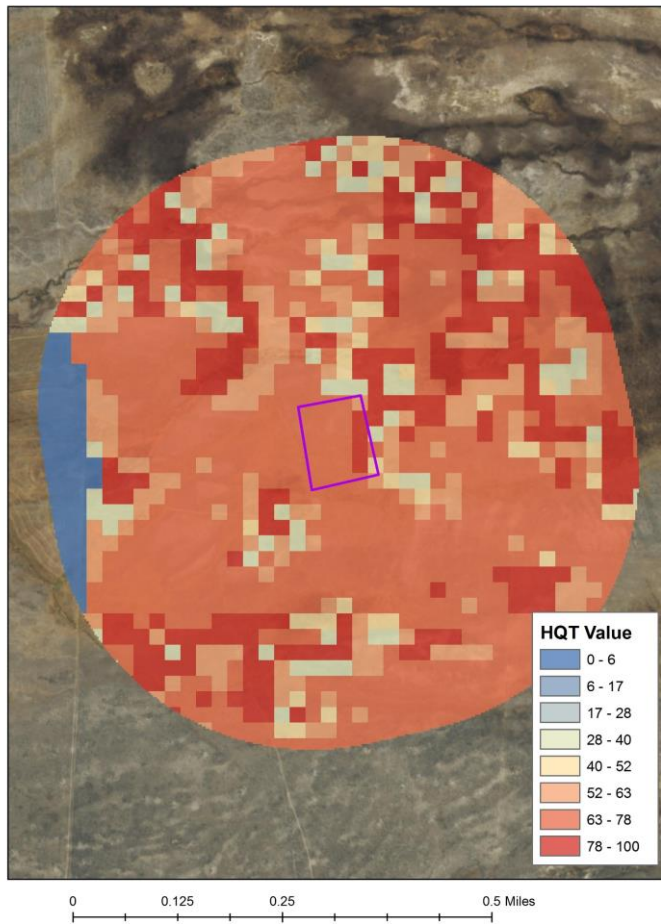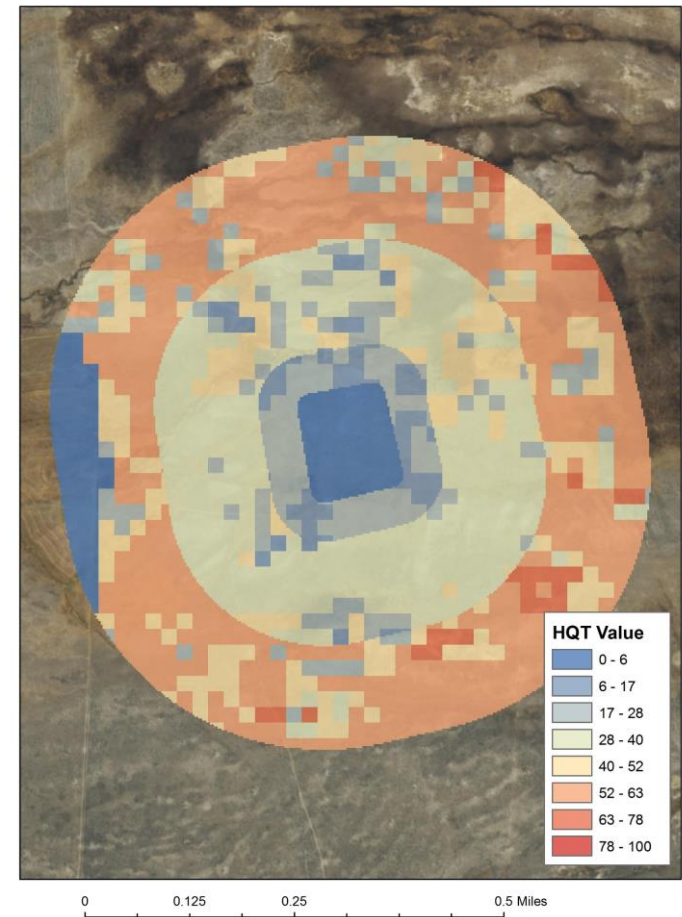

Core Area

General Habitat

Hypothetical Mining – Core Area

- High baseline values (left) mean high quality habitat - red

- Construction and operations (right): direct and indirect impacts

- Raw HQT score, life of project: 869 debits

BaselineHQT - Gravel Pit - Core Habitat

HQT Value
- 0 - 6
- 6 - 17
- 17 - 28
- 28 - 40
- 40 - 52
- 52 - 63
- 63 - 78
- 78 - 100

0   0.125   0.25   0.5 Miles

Operations Phase - Gravel Pit - Core Habitat

HQT Value
- 0 - 6
- 6 - 17
- 17 - 28
- 28 - 40
- 40 - 52
- 52 - 63
- 63 - 78
- 78 - 100

0   0.125   0.25   0.5 Miles

Mining – General Habitat

- Low baseline values (left) mean low quality habitat (blue)

- Construction and operations (right): direct and indirect impacts

- Raw HQT score, life of project: 161 debits
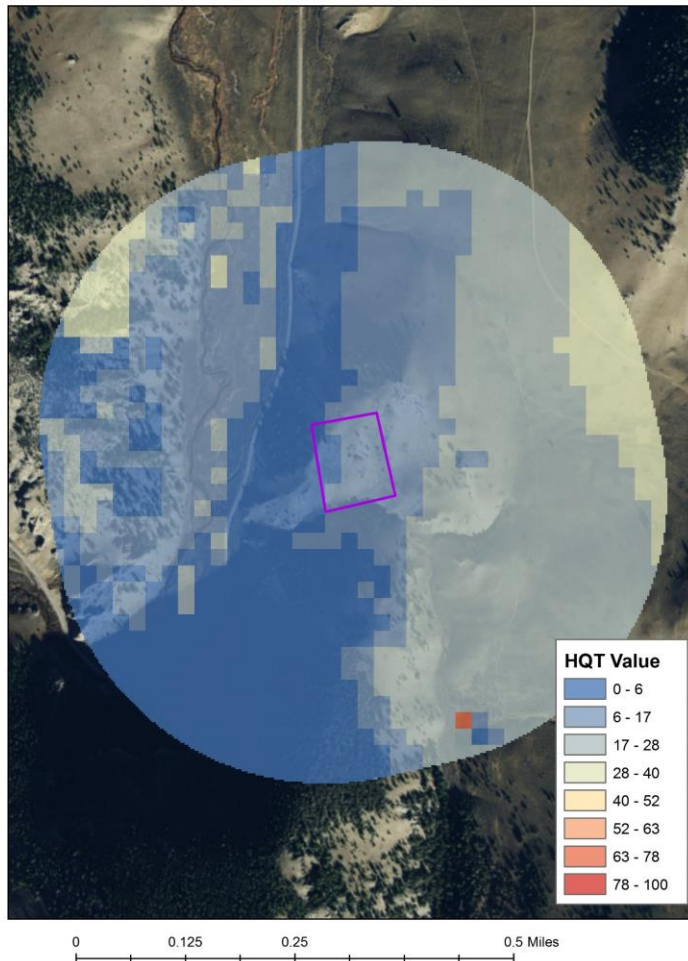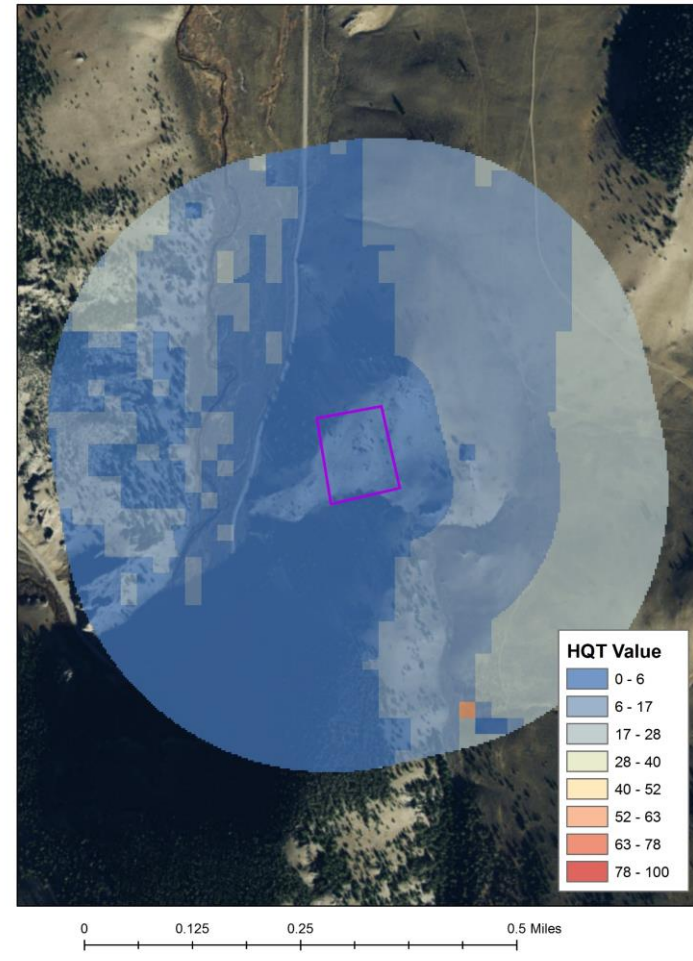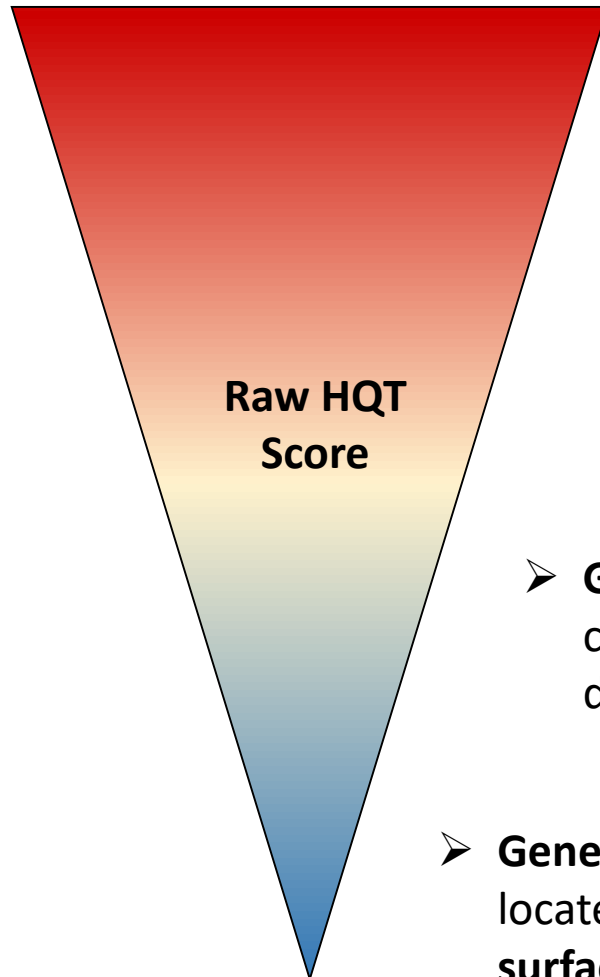

BaselineHQT - Gravel Pit - General Habitat

Operations Phase - Gravel Pit - General Habitat

HQT Value
- 0 - 6
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Continuum of HQT Results

- **High Quality Habitat**
- **High Scores**

Raw HQT Score

- ➢ **Core Area:** project creates **new surface** disturbance

- ➢ **Core Area:** project located on top of **existing surface** disturbance
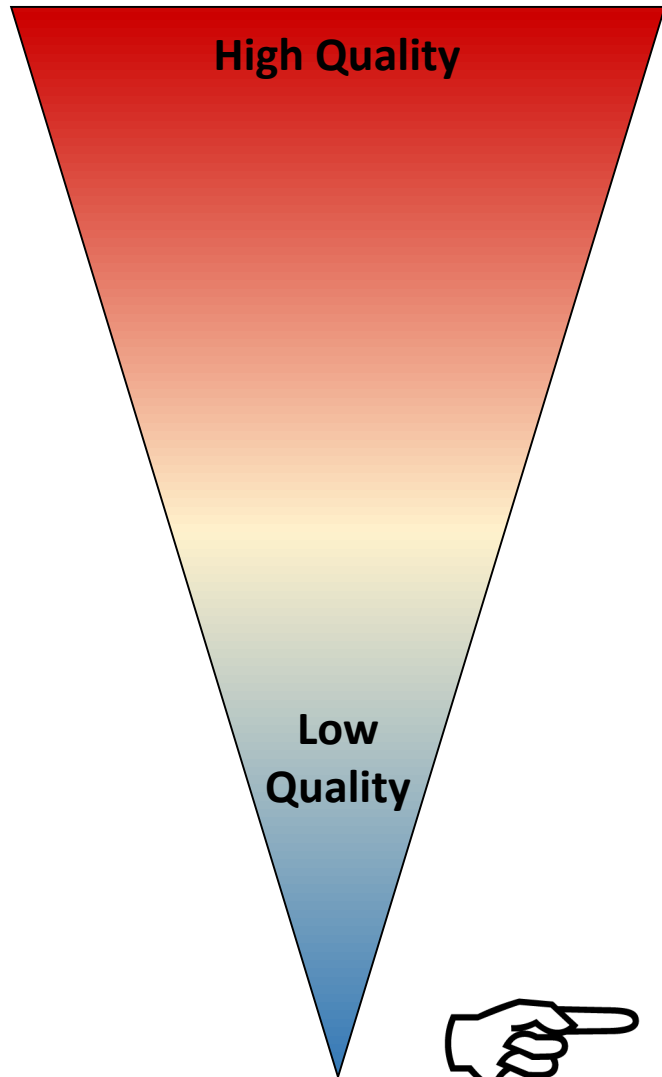
- ➢ **General Habitat:** project creates **new surface** disturbance

- ➢ **General Habitat:** project located on top of **existing surface** disturbance

- **Low Quality Habitat**
- **Low Scores**

Apply Multipliers

Recap: what drives HQT results and debits?

High Quality

Low Quality

HQT scores = Functional Acres Lost

HQT Score Depends on:

- underlying habitat quality (red or blue?)
- project location (core vs. general?)
- project type (above or below ground?)
- project size (big or small?)
- project duration (short or long?)

Total debits depend on:

- multipliers; scale to the project HQT score
  - will vary, but reserve account common to all
  - consistency with Executive Order 12-2015?

Results and Obligations: proportional, commensurate with habitat, project type, location, time, & impacts

Impacts: Debits

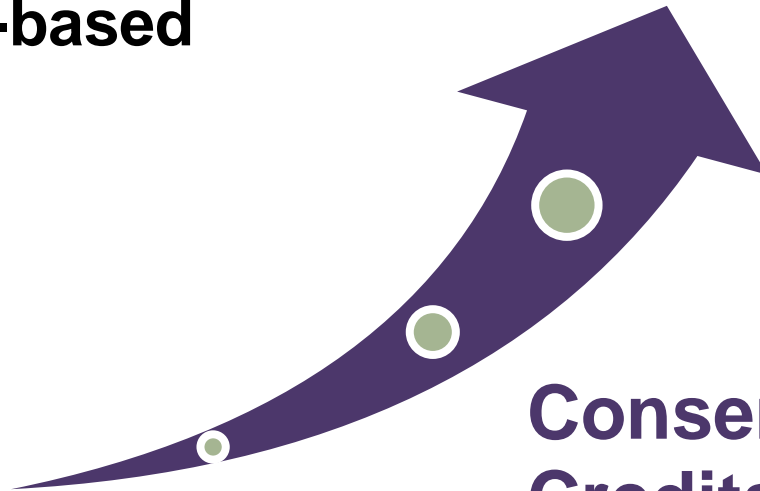**Mitigation Market Place: incentivize voluntary conservation**

Mitigation is Transactional:
- **free market mechanisms**
- **incentive-based**

GOALS:

Maintain viable sage grouse populations and conserve habitat

Maintain flexibility to manage our own lands, our wildlife, and our economy
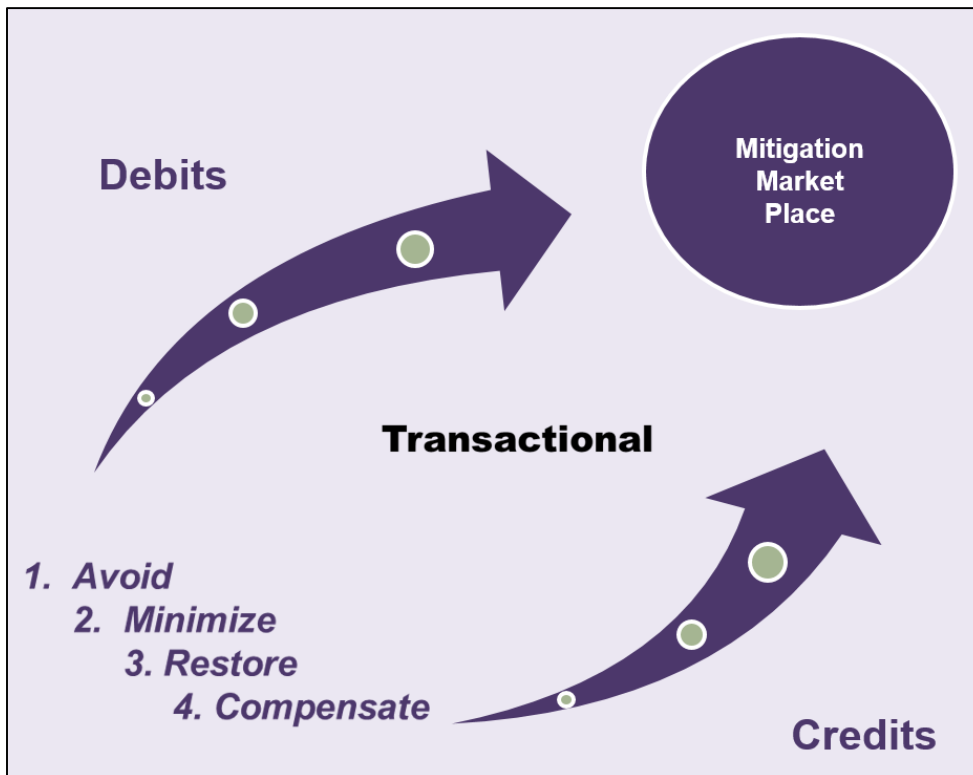
Conservation: Credits

(largely from private lands)

Debit: defined unit of trade representing the loss or resource functions or value at an impact or project site. MCA 76-22-103

Policy +

Debits

Mitigation Market Place

Transactional

1. Avoid
   2. Minimize
      3. Restore
         4. Compensate

Credits

What determines the total number of debits which need to be offset by credits?

Total HQT score x policy multipliers = total debits

Modifiers provide clear policy signals to incentivize keeping impacts as low as possible and account for risk

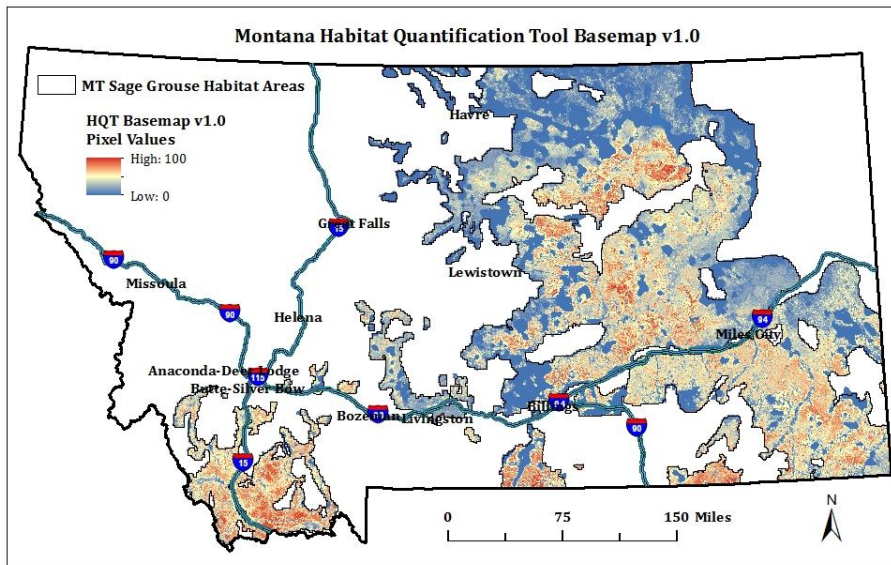# HQT Score + Policy Multipliers

HQT Score:

- Where you are
- How long you're there

Policy Multipliers:

- What you do
  - ○ Executive Order 12-2015 Deviations

- Common to All
  - ○ Reserve Account
  - ○ *pooled insurance 20% of HQT score*

How developers can fulfill their mitigation obligations

1. **Permittee Responsible:**
   - do conservation project/s to create own credits; maybe surplus
   - example: Denbury, NorVal

2. **Work with a third party to obtain credits in the market:**
   - landowners
   - other developers
   - (state not a party)

3. **Contribution to Stewardship Account if sufficient credits not available elsewhere**
   - average cost of credits otherwise required

4. **Any combination of the above**

How developers can fulfill their mitigation obligations

1. **Permittee Responsible:**
    - do conservation project/s to create own credits; maybe even create a surplus
    - example: Denbury, NorVal

DEMAND: Credit Buyers (industry)

- **Must offset impacts**

OPTION 1: **Permittee Responsible**
- *do your own credit project*

- *maybe create surplus & use later or sell to other developers*

MSGOT & SG Program
- **HQT**
- **track credits & debits**

How developers can fulfill their mitigation obligations

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   - other developers
     - *state is not a party*

DEMAND: Credit Buyers (industry)

- Must offset impacts

Direct Transaction

SUPPLY: Credit Sellers (private landowners)

- provides SG habitat

Direct Transaction

OPTION 2: Work directly with a Third Party
- *a landowner*
- *other developers who have surplus credits*

SUPPLY: Developer with Surplus Credits

MSGOT & SG Program
- HQT
- track credits & debits
- State not a party to transaction

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Contribution to Stewardship Account to purchase MSGOT-created credits
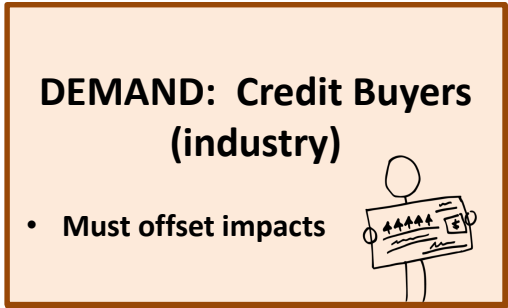
OPTION 3:   Contribution to Stewardship Account

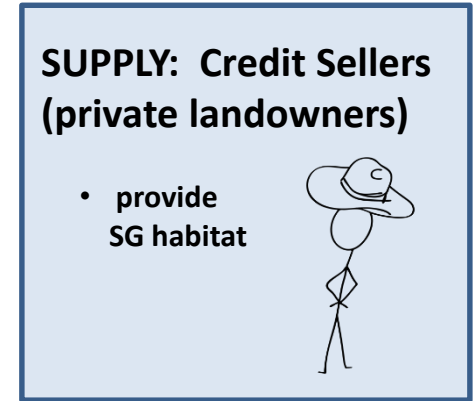Stewardship Grants: create new credits

Stewardship Account

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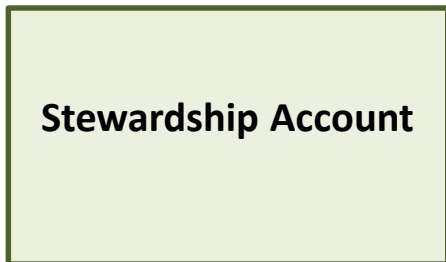- Must offset impacts

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OPTION 4: Any Combination of the Above

Contribution to Stewardship Account to purchase MSGOT-created credits

Stewardship Grants: create new credits

Stewardship Account

MSGOT & SG Program
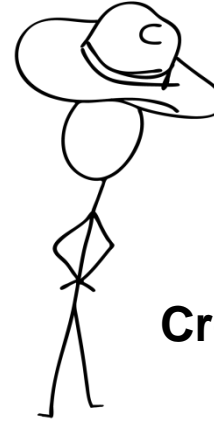- HQT
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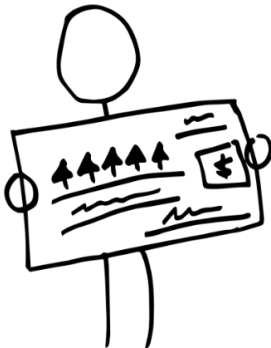
Mitigation Roles and Responsibilities

Regulator

(permitting agency – like DEQ)

Credit Provider

(landowner)

Credit Buyer

(industry if need a permit)

MSGOT & Program

RECAP: Consistency Review

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2020 Conservation Assessment

Photo: Joel Maes

1. How are the birds doing?

2. What happened to the land?